

DOCKET NO.: 17637
ALLE0039-100
Serial No. 10/731,973

PATENT

REMARKS

Upon entry of this response, claims 1-6 and 8-10 and 12 will be pending.

I. No New Matter

Claim 12 is rejected under 35 U.S.C. § 112, first paragraph, for allegedly being containing subject matter that is not disclosed in the specification. Claim 12 recites a method of treating a dermatofibroma, keloid, mole, granuloma and/or keratose by administering a botulinum toxin to the location of the skin disorder.

Contrary to the Office Action's allegation, the subject matter of claim 12 is fully disclosed by the specification at, for example, page 1, line 9, and lines 20-23, which state:

The present invention relates to methods for treating skin disorders...A skin disorder can be a ...dermatofibroma, keloid, mole...granuloma ...and a keratose.

Thus, claim 12 is fully supported by the specification.

II. Novelty

As an overview, the claims are novel over each of the Binder and Kwon references because:

- the Office Action states that the "lesions" disclosed by Binder are the same as the claimed "ulcers". The claims have been amended to delete "ulcers". Hence, the claims are novel over Binder.
- claim 11 is the only claim being rejected for being anticipated by Kwon. Claim 11 has been canceled, rendering moot the rejection over Kwon.

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Novel Over Binder

Claims 1-6, 9 and 10 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,670,484 and EP 0 845 267 B1 (hereinafter "the Binder reference"). The Office Action states that disclosure of "lesions" by the Binder reference is the equivalent of the claimed "ulcers" feature. Applicant respectfully disagrees.

However, for the sole purpose of facilitating prosecution, Applicant deleted the feature "ulcers" from the claims, rendering the rejection moot. Moreover, Applicant reserves the right to file claims directed to the treatment of ulcers in a divisional application.

Although Applicant deleted the feature "ulcers" from the claims, Applicant maintains that the claimed method for treating ulcers is novel over the Binder reference. As previously discussed, the type of "lesion" that the Binder reference discloses relates to cutaneous cell-proliferative disorders, e.g., psoriasis. A cutaneous cell-proliferative disorder is different from an ulcer. For example, a psoriasis lesion (a cutaneous cell-proliferative disorder) is "papules and plaques, sharply marginated with marked silvery-white scale". Exhibit 1: Color Atlas and Synopsis of Clinical Dermatology, Common and Serious Diseases, Fitzpatrick et al., McGraw-Hill, Inc., Second Edition (1992), page 40-41, submitted with response on September 19, 2005. On the other hand, an ulcer is "a skin defect in which there has been a loss of the epidermis and the upper papillary layer of the dermis". Exhibit 2: Id., at page 771, submitted with response on September 19, 2005. Thus, the "lesion" disclosed by the Binder reference is not an equivalent of the "ulcer" feature of the present claims. Accordingly, the claims are novel over the Binder reference.

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Novel Over Kwon

Claim 11 is rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Application Publication 2004/0087893 A1 (hereinafter "the Kwon reference"). The Office Action alleges that the Kwon reference anticipates the claimed invention because the "claimed invention does not exclude any device present [i.e., the SSP system] to carry out the method for treating a skin disorder" and that the Kwon reference discloses the treatment of warts (Office Action, page 5).

For the sole purpose of facilitating prosecution, Applicant has canceled claim 11, rendering moot the rejection over Kwon.


Although Applicant has canceled claim 11, Applicant respectfully disagrees with the rejection. It is important to understand that in order for the Kwon reference to anticipate the claimed invention, the reference must teach every feature of the claimed invention. One of the features of the claimed invention is the administration of a botulinum toxin to treat warts. Even if the Kwon reference teaches the treatment of warts by using an SSP system, the Kwon reference does not teach the use of an SSP system to administer a botulinum toxin to treat warts. Thus, the claimed invention is novel over the Kwon reference.

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In view of the foregoing, Applicant submits that the pending claims are in condition for allowance, and an early Office Action to that effect is earnestly solicited.

Respectfully submitted,



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